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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

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4 PACE Local Union 5-1067, :
et. al., : Case No. C-1-02-301
5 : (CONFIDENTIAL)

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Plaintiffs,

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vs. :
: Cincinnati, Ohio
7 : December 18, 2002

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INTERNATIONAL PAPER CO.,

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Defendant.

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Deposition of MILTON LEWIS, a

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witness herein, taken as upon cross-examination by the

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Plaintiffs, and pursuant to the Federal Rules of

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Civil Procedure, agreement of counsel, and stipulations

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hereinafter set forth, at the offices of Robert I. Doggett,

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Esq., 215 E. Ninth Street, 6th Floor, Cincinnati, Ohio,

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45202, on the 18th day of December, 2002, at 3:05 p.m.,

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before Julie A. Patrick, a Notary Public for the State of

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Ohio.

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TRI-COUNTY COURT REPORTING AND VIDEOTAPE SERVICE

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95 S. FOURTH STREET
BATAVIA, OHIO 45103
25 (513) 732-1477

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APPEARANCES:

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On behalf of PACE Local Union:
ROBERT I. DOGGETT, ESQ.

2 3 215 E. Ninth Street, 6th Floor
Cincinnati, Ohio 45202

2 4
2 5 On behalf of International Paper:
VINCENT J. MIRAGLIA, Esq.
2 6 W. CARTER YOUNGER, Esq.
McGuire Woods, LLP
One James Center
2 7 901 East Cary Street
Richmond, VA 23219-4030

2 8
2 9 On behalf of Smart Paper:
STANLEY F. LECHNER, ESQ.
Morgan, Lewis & Bockius, LLP
2 10 1111 Pennsylvania Avenue, NW
Washington, DC 20004

2 11 Also present: Timothy D. Bray
2 12 Ron Schweitzer

2 13

2 14 S T I P U L A T I O N S

2 15 It is stipulated and agreed by and amongst
2 16 counsel for the respective parties that the deposition of
2 17 MILTON LEWIS, a witness herein, called as upon
2 18 cross-examination by the Plaintiffs, may be taken at this
2 19 time and place pursuant to the Federal Rules of Civil
2 20 Procedure, agreement of counsel; that the deposition may be
2 21 recorded in stenotype by the Notary Public, Julie A.
2 22 Patrick, who is also the court reporter, and transcribed out
2 23 of the presence of the witness; and that signature of the
2 24 deponent was requested and shall be affixed outside the
2 25 presence of the Notary Public.

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3 1 I N D E X

3 2

3 3 WITNESS DIRECT CROSS REDIRECT RECROSS

3 4 MILTON LEWIS

3 5 by Mr. Doggett: 4 45

3 6 by Mr. Younger: 27

3	7		
3	8		
3	9		
3	10	PLAINTIFFS' EXHIBITS	MARKED
3	11	1:	8
3	12	1-A - 1-H:	9
3	13	2:	16
3	14	3:	17
3	15	4:	22
3	16	5:	24
3	17	6:	26
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4 1 MILTON LEWIS,
4 2 a witness herein, being of lawful age, after having been
4 3 duly cautioned and sworn, was examined and deposed as
4 4 follows:

4 5 CROSS-EXAMINATION

4 6 BY MR. DOGGETT:

4 7 Q. Would you state your name and address, sir.

4 8 A. My name is Milton E. Lewis, L-E-W-I-S.

4 9 MR. LECHNER: Mr. Doggett, before we get

9 25 Q. You saw this paper?

9 10

10 1 A. Yes.

10 2 Q. And it says, "I hereby accept offer", and "I
10 3 hereby decline the offer", right?

10 4 A. I saw this subsequent to that.

10 5 Q. Yeah. Okay. And let's go to 1-C where Jack
10 6 Ratliff's response says, "I hereby accept the offer", and
10 7 then he hand wrote, "I will be looking for other employment
10 8 while there, as the \$8.80 reduction in my pay rate after 42
10 9 loyal years of service is devastating to my family." You
10 10 saw this before?

10 11 A. I've seen this before.

10 12 Q. And then, how about the Exhibit 1-E, where
10 13 Jimmy Taylor said, I accept job under protest and so on.
10 14 Have you seen that?

10 15 A. Yes.

10 16 Q. And then, 1-G is Michael Thomas saying -- he
10 17 checks off, I accept the job. And you've seen all of these?

10 18 A. Yes.

10 19 Q. Now, would you tell me -- tell us the
10 20 circumstances -- identify whether or not that's -- that this
10 21 agreement was prepared -- it's dated February 13, 2001,
10 22 which is Plaintiffs' Lewis Exhibit 1-B, 1-D, 1-F, and 1-H,
10 23 how did it come about that you -- that's your signature on
10 24 these agreements, is it not?

10 25 A. Yes, it is.

10 11

11 1 Q. How did that come about that, for Born,

11 2 Ratliff, Taylor, and Thomas, these agreements were signed --

11 3 A. The way that this came about was, my direct
11 4 boss at the time was Annetta Johnson, who directed me to
11 5 contact Born, Taylor, and the rest of these folks in this
11 6 exhibit.

11 7 Q. We'll call them the four, okay?

11 8 A. To ascertain whether they would be interested
11 9 in leaving Smart Papers, whether they would like for Smart
11 10 Papers to rescind their employment offer.

11 11 Q. Now, you knew, then, from talking to Annetta,
11 12 that they had been offered a job?

11 13 A. Yes.

11 14 Q. And she wanted you to contact them to see if
11 15 they wanted to agree that Smart should rescind its offer?

11 16 A. Yes.

11 17 Q. Then what did you do?

11 18 A. I went out to the bailer area, and I think I
11 19 talked to Joe Born and -- maybe it was Jimmy Taylor. I am
11 20 not too familiar with them personally, but -- I had never
11 21 met them before. And I told them that I would like to see
11 22 them in my office, including the other people on this list.
11 23 And I gave them the --

11 24 Q. All four of them?

11 25 A. Yes, the list of these folks. And I wanted to

11 12

12 1 see them in my office. I needed to talk with them regarding
12 2 their employment.

12 3 Q. All four of them together?

12 4 A. Yes.

12 5 Q. Then what happened?

12 6 A. I can't recall whether it was the same day or
12 7 the next day, but they came to my office. And I told them
12 8 that they had contacted Annetta and that they were
12 9 interested in leaving Smart Papers, and that Smart Papers
12 10 would consider withdrawing their employment offer. And if
12 11 they were interested in that, they should let me know. And
12 12 I gave them a couple of days to get back to me.

12 13 Q. Okay. I notice the date of the agreement is
12 14 February 13, 2001. And February 13, 2001, was a Tuesday.
12 15 And it is -- did they -- the agreements -- those four
12 16 agreements were prepared -- dated February 13. Did they
12 17 sign them on a later date or the same day; do you recall?

12 18 A. Well, maybe they signed them the same day. I
12 19 just have it in my mind that we gave them some time to sign
12 20 it.

12 21 Q. And maybe they didn't need it, huh? Maybe
12 22 they decided on the spot?

12 23 A. Maybe they did, yeah.

12 24 Q. Now then, Born, Ratliff, Taylor, and Thomas,
12 25 the people listed in Plaintiffs' Exhibit Lewis Exhibit 1-A

12 13

13 1 through H, never did work for Smart, right?

13 2 A. Yes, they did.

13 3 Q. Oh, they did work for Smart?

13 4 A. Yes.

13 5 Q. A day or two or what?

13 6 A. They were on the job. I know the two people
13 7 that I contacted was in the area when I contacted them, Born

13 8 and Taylor.

13 9 Q. So -- okay. So they would have got some -- do
13 10 you know how long they stayed on the job, a day or two or a
13 11 week?

13 12 A. It must have been a day or so. It was the
13 13 13th -- if this was signed on the 13th, I think we got
13 14 started on the 12th or the 13th of February. So they were
13 15 on the job.

13 16 Q. Now, I wonder -- I would like to go back. If
13 17 we can get out Plaintiffs' Weissman Exhibit 15? Do you have
13 18 it?

13 19 A. Yes.

13 20 Q. I'll direct you -- down in the lower right
13 21 corner, are there page numbers? It says IP-100119.

13 22 A. You know, I have 110. 110 at the bottom of the
13 23 page.

13 24 Q. Yeah. I'm looking at the one that starts with
13 25 "I.P. hourly employees without job offers from Smart

13 14
14 1 Papers".

14 2 A. I got it.

14 3 Q. Do you see that?

14 4 A. Yes.

14 5 Q. Now, do you see down alphabetically, Born,
14 6 Joseph O., is on the list of I.P. hourly employees without
14 7 job offers from Smart Papers, right?

14 8 A. Yes.

14 9 Q. And over on page P-100121, three pages later,
14 10 do you see Jack Ratliff?

30 1 Q. Okay.

30 2 A. And when she came here, I went to Illinois as
30 3 vice-president and general counsel for Parklin College
30 4 Community College, District Number 508.

30 5 Q. And then, where did you go from there?

30 6 A. I came back to Cincinnati in 1994 and started
30 7 to teach at the University of Cincinnati.

30 8 Q. What did you teach?

30 9 A. I taught over in Batavia. I taught law
30 10 courses in Batavia.

30 11 Q. Did you teach some employment law course over
30 12 there?

30 13 A. Employment, labor contracts.

30 14 Q. And then, after you were teaching law, what
30 15 did you do next?

30 16 A. Well, that's when I came to Hamilton.

30 17 Q. And that was with Champion at that time?

30 18 A. Yes, it was Champion at that time.

30 19 Q. And when did you become general counsel of
30 20 Smart?

30 21 A. March 23rd of 2001.

30 22 Q. Now,, let me direct your attention to Exhibit
30 23 Lewis 1-E. It was one of the response documents.

30 24 A. E?

30 25 Q. Right. Yes, sir, 1-E. This is a response,

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31 1 and it's from Jimmy L. Taylor is the one that I've got here.

31 2 A. Yes.

31 3 Q. Is that accurate?

31 4 A. It's accurate.

31 5 Q. I was just reading up at the top, there is
31 6 some handwriting, it says, "Under protest because my
31 7 department was done away and I was in maintenance for 29
31 8 years. We would have been better off with a severance." Do
31 9 you know what Mr. Taylor was referring to when he says "his
31 10 department was done away with"?

31 11 A. Yes. Mr. Taylor and Mr. Born and other
31 12 employees -- specifically Taylor, they were mobile equipment
31 13 operators, I think, under Champion, I.P., and those jobs
31 14 were eliminated when we came over as Smart Papers.

31 15 Q. So, when you met with Mr. Taylor and, I think,
31 16 Born and the other individuals, was it your understanding
31 17 that their department had been eliminated at Smart?

31 18 A. I was not told directly by Annetta, but I did
31 19 find out, you know, when I was talking to these people, from
31 20 someone in my office that the new structure eliminated these
31 21 jobs, and so I was aware.

31 22 Q. And so that would apply to Mr. Taylor and Mr.
31 23 Born. Would that apply to Mr. Ratliff? Now, he's on page
31 24 1-C.

31 25 A. I don't know if Mr. Ratliff was mobile

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32 1 equipment or one of the other positions, like trash haulers,
32 2 and -- I think Randy Tackett was in fire control. There was
32 3 a variety of positions that were not brought over with Smart
32 4 Papers.

32 5 Q. So Smart, it was your understanding, did not
32 6 have the job there that they had been doing before?

32 7 A. Absolutely.

32 8 Q. And that was a position elimination?

32 9 A. A position elimination.

32 10 Q. All right, sir. Now, let me direct your
32 11 attention to Plaintiffs' Weissman Number 15. And that's
32 12 this list.

32 13 A. Got it.

32 14 Q. At some point, I believe, you testified that
32 15 Annetta Johnson was the one responsible for communicating to
32 16 International Paper who had offers and who didn't; is that
32 17 correct? I think you said something like that.

32 18 A. I recall Counselor Doggett saying that. She
32 19 was the head of HR. She was the vice-president for human
32 20 resources at the time. So, if anyone was going to
32 21 communicate with I.P., it would have been her. But I don't
32 22 have independent knowledge of what she did.

32 23 Q. Well, are you aware of any communications to
32 24 I.P. about the individuals that you asked about and the
32 25 circumstances under which they did or didn't have offers,

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33 1 other than Weissman Number 15?

33 2 A. After I gave these releases back to Annetta, I
33 3 have no idea what the procedure was.

33 4 Q. Now, on the releases -- for example, let's
33 5 take a look at Plaintiffs' Lewis Number 1-F, that's Jimmy
33 6 Taylor's release. I take it, then, that this agreement,
33 7 from the language of it, is a confidential agreement between
33 8 Mr. Taylor and Smart Papers; is that correct?

33 9 A. That is correct.

33 10 Q. International Paper was not a party to this
33 11 agreement, were they?

33 12 A. No, they were not.

33 13 Q. In fact, it would have been a violation of
33 14 this agreement, which would subject Mr. Taylor to forfeiture
33 15 and court costs and attorney's fees, if he would have
33 16 disclosed this to International Paper; isn't that true?

33 17 A. That is correct.

33 18 Q. And similarly, Smart treated this as
33 19 confidential, too, didn't they?

33 20 A. Yes, they did.

33 21 Q. So, to your knowledge, none of this agreement
33 22 by Mr. Taylor was communicated to International Paper, was
33 23 it?

33 24 A. It was not, to my knowledge.

33 25 Q. That would have breached the confidentiality,

34

34 1 wouldn't it?

34 2 A. Absolutely.

34 3 Q. And isn't the same true for Exhibit 1-H by Mr.
34 4 Thomas? He could not disclose that to International Paper,
34 5 this agreement, nor would Smart Papers disclose that?

34 6 A. That is correct.

34 7 Q. And then, Mr. Born is shown, it's Lewis 1-B,
34 8 the same question. International Paper was not a party to
34 9 Mr. Born's agreement, correct?

34 10 A. No, they were not.

34 11 Q. In fact, it would have been a violation of
34 12 this agreement that would subject Mr. Born to liability were